

# WILL NOT RECEIVE R. E. & P. TAXES

Auditor Says Oath Will Not Permit Him to Accept Compromise

## HIS LETTER TO GOVERNOR

Demands State's Entire Claim or Nothing—Constitution Is Cited

Intense interest was aroused yesterday over publication of the fact, as announced exclusively in The Times-Dispatch, that State Auditor C. Lee Moore has attacked the constitutionality of the act under which settlement was made of the tax dispute between the commonwealth and the Richmond, Fredericksburg and Potomac Railroad. It was generally realized that if his position is correct, the work of compromise which has been in progress for so many months will have gone for nothing.

Feeling that as the fact of his position has been published, the people are entitled to know the basis of his argument, the Auditor yesterday gave to The Times-Dispatch a copy of his letter to the Governor.

**Collect All or None.**—He says frankly in this communication that but for the appeal allowed by the Supreme Court of the United States, where the tax litigation is pending, he would place the entire claim for collection in the hands of officers, to be secured by levy if necessary. He takes the position that if the railroad is correct in its contention that the State should not receive one cent, but that if the commonwealth is right, it should collect the last dollar of the assessed and assessable taxes, with interest and penalty, the railroad, he argues, being well able to pay it.

The act of the last Legislature creating the special commission for compromising the differences between the State and the railroad is, in the opinion of Mr. Moore, unconstitutional in that it contravenes section 63 of the constitution, which provides that the General Assembly "shall not enact any local, special or private law in the following cases":

"For the assessment and collection of taxes, except as to animals which the General Assembly may deem dangerous to the farming interests."

"Remitting, releasing, postponing or diminishing any obligation or liability of any person, corporation or association, to the State, or to any political subdivision thereof."

His oath of office, says the Auditor, will prevent his accepting and paying to the State Treasury money received under a compromise which violated the constitution. He wants the entire sum.

**Letter to Governor.**—Mr. Moore's letter is in full as follows:

The Supreme Court of Appeals of Virginia held the railroad company having, after July 10, 1912, when the present Constitution of the State became effective, accepted the provisions of the act of April 2, 1912, surrendered, in accordance with the terms of Section 135 of the Constitution, every exemption from taxation contained in its charter, and that the valuable privileges acquired by the company, under the act of April 2, 1912, constitute amendments to its charter to that effect.

**The Taxes Involved.**—In effect this decision sustains the assessments of the franchise tax made against this company for each year it has been made, and is authority to make not only the assessment of the franchise tax for each of the years 1911 and 1912, for which the assessments have not been made, but authority, also, to make the assessment of taxes on the real and personal property of the company for each of the years 1911 and 1912.

The franchise tax already assessed for the years 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921 and 1922.

For 1911, under the judgment of the Supreme Court of Appeals of Virginia, franchise tax is \$19,815.96 WW

For 1912, under the judgment of the Supreme Court of Appeals of Virginia, franchise tax is \$19,815.96 WW

For 1913, under the judgment of the Supreme Court of Appeals of Virginia, franchise tax is \$19,815.96 WW

For 1914, under the judgment of the Supreme Court of Appeals of Virginia, franchise tax is \$19,815.96 WW

For 1915, under the judgment of the Supreme Court of Appeals of Virginia, franchise tax is \$19,815.96 WW

For 1916, under the judgment of the Supreme Court of Appeals of Virginia, franchise tax is \$19,815.96 WW

For 1917, under the judgment of the Supreme Court of Appeals of Virginia, franchise tax is \$19,815.96 WW

For 1918, under the judgment of the Supreme Court of Appeals of Virginia, franchise tax is \$19,815.96 WW

For 1919, under the judgment of the Supreme Court of Appeals of Virginia, franchise tax is \$19,815.96 WW

For 1920, under the judgment of the Supreme Court of Appeals of Virginia, franchise tax is \$19,815.96 WW

For 1921, under the judgment of the Supreme Court of Appeals of Virginia, franchise tax is \$19,815.96 WW

For 1922, under the judgment of the Supreme Court of Appeals of Virginia, franchise tax is \$19,815.96 WW



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as it was by law authorized to do, to correct the assessment. The Circuit Court of the city of Richmond decided the contention in favor of the company, but upon appeal by the Commonwealth to the Supreme Court of Appeals of Virginia, that court reversed the judgment of the Circuit Court of the city of Richmond, and on January 16, 1913, entered the following order respecting the franchise tax assessed for 1912:

"That the assessment thereof, made by the State Corporation Commission, be affirmed, and that the Commonwealth recover from the defendant in error the sum of \$19,815.96, the amount of the said franchise tax for the year 1912, together with \$7,431.77, the damages according to law, the same being computed as equal to interest at 5% a month upon the amount of said franchise tax from December 1, 1912, the date when said tax was payable, with interest upon the said sum of \$19,815.96, the amount of said tax, from this date until the same shall be paid, and costs."

**Could Collect by Force.**—The statute law of Virginia requires the Auditor of Public Accounts, if a railroad corporation does not pay the taxes assessed against it, annually, before the first day of December of the year in which they are assessed, to place the bill for those taxes in the hands of the treasurer of any county or city in which such corporation owns property, and it is the duty of such treasurer to levy and distrain to make the amount of the bill placed in his hands for collection.

The Auditor of Public Accounts has been restrained by the process of the Circuit Court of the city of Richmond, from carrying out this provision of the law and is now restrained from performing this duty by the process of the Supreme Court of the United States, which has ordered the Circuit Court of Appeals of Virginia to affirm the judgment of the Circuit Court of the city of Richmond.

The Auditor of Public Accounts will enforce the law as soon as the restraint now placed upon him by the court is removed.

**Latest Law Attached.**—The General Assembly, by an act approved March 14, 1912, known as Chapter 416, Acts 1912, entitled "An act to provide for a compromise and settlement of certain contentions and differences between the Commonwealth and its political subdivisions, upon the one part, and the Richmond, Fredericksburg and Potomac Railroad Company, on the other part," undertook to create a special commission to compromise, adjust and settle all questions regarding the liability of the Richmond, Fredericksburg and Potomac Railroad Company for state or local taxes or public dues or charges heretofore or hereafter assessed or assessable, against it or against or upon its franchisees, business, property, income, etc., etc.

I am of the opinion that this act contravenes Section 63 of the Constitution, which provides that the General Assembly "shall not enact any local, special or private law in the following cases":

"For the assessment and collection of taxes, except as to animals which the General Assembly may deem dangerous to the farming interests."

"Remitting, releasing, postponing, or diminishing any obligation or liability of any person, corporation or association, to the State, or to any political subdivision thereof."

**Cannot Diminish Tax.**—If I am correct in this opinion, there is, at this time, no authority conferred on any officer of this State to remit, release, or diminish one cent of these taxes, penalty, interest and damages.

Every cent, so far as judicially determined at this time, is due and should be paid.

Moreover, if the Supreme Court of the United States should decide that to require this railroad company to pay these taxes impairs the obligation of a contract, then the State of Virginia should not receive one cent, but if the United States Supreme Court should sustain the Supreme Court of Appeals of Virginia, this State should receive every cent of these taxes, etc., and for the same reason the counties, cities and towns, through which this road operates, should receive every cent of the taxes due them.

There is no question of the ability of this corporation to pay the taxes, State and local.

The only way by which the General Assembly could compromise and release these taxes, State and local, which the company has the ability to pay, must be by general law and not by such special Act as that contained in Chapter 416, Acts 1912.

**Will Regard Oath.**—Holding these views, under my oath of office to support the Constitution of the State of Virginia, I could not accept and pay into the treasury of this State moneys received under a compromise made pursuant to and under the provision of the act known as Chapter 416, Acts 1912, until the Supreme Court of Appeals of this State compels me by its order to accept as settlement in full for the State \$19,815.96 (the amount stated as agreed upon) under the act of 1912, which, in my opinion is unconstitutional, instead of \$38,474.46, the amount I calculate should be paid, when all the assessments which can be made have been made.

If my calculation is approximately correct the State would not receive fifty cents on the dollar. The reasons for securing to the counties, towns and cities in full the taxes due them are equally cogent as those I urge upon the part of the State.

Yours very truly,  
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**Statistics Law Well Enforced.**—Twenty-Four Counties and All Cities Make Good Reports. First Honor Roll.

Computations made by officers of the Federal Census Bureau and received yesterday by the State Board of Health, give the first definite information regarding the operation of the new vital statistics law, and show that the local registrars of births and deaths in twenty-four counties are performing their duty in a highly satisfactory manner.

Since the vital statistics law went into effect on June 14, 1912, the 1,500 registrars scattered throughout the State have been forwarding monthly, as required by law, the originals of all birth and death certificates filed with them. These have been arranged and bound, and have recently been examined in detail by an expert sent by the Census Bureau. His calculations, showing the death rate in all the counties and cities, are regarded by the State's health officers as a working guide for the future.

The State rate has not yet been determined, and death certificates are expected to be forwarded by the State health officers as a working guide for the future.

The full list of counties in the honor roll of the State is as follows: Brunswick, Chesterfield, Dinwiddie, Elizabeth City, Hanover, Henrico, Henry, Isle of Wight, James City, King George, King William, Lancaster, Loudoun, Loudensburg, Montgomery, Page, Prince George, Richmond, Roanoke, Shenandoah, Southampton, Surry, Sussex and Warwick.

"In some of these counties," said an officer of the Board of Health yesterday, "the showing is most creditable. In Lancaster County, for example, the registrars seem to have procured report of practically all the deaths, and in Henry, during July and August, the showing was equally good. In Dinwiddie and James City Counties, the registrars have done their duty, but the high death rate charged against those counties is due in large measure to the insane asylums located there. Our registrars have done splendid work and deserve the thanks of the State. We hope that with the next review of the records, the number of counties reaching the State average will at least be doubled."

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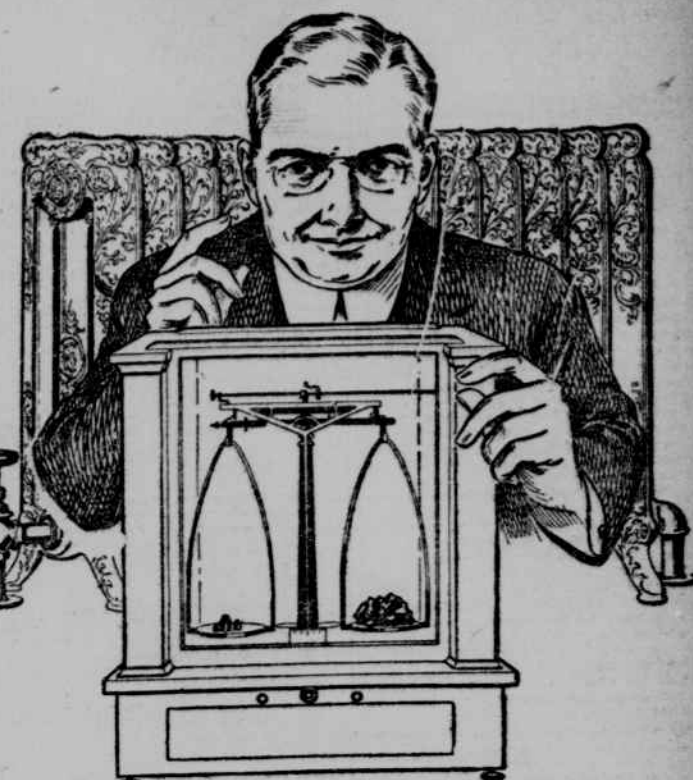
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All these advantages and many more are secured and insured to anyone who puts in an outfit of IDEAL Boilers and AMERICAN Radiators. The coal-dealer will sell you enough less coal to soon equal the cost of the outfit—but he had rather have steady, satisfied customers—just as you would if you were in the coal business.

This Company has become the greatest heating authority in America, Europe and Australia. We publish free books on best rules for running heating boilers, on heat regulation, on correction of chimney faults, and upon heating data of the most up-to-date character.

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## NORTH CAROLINA NOW HAS NEW GOVERNOR

Hon. Locke Craig Takes Oath of Office, Succeeding Kitchin.

HIS INAUGURAL ADDRESS

He Serves Warning That Trusts Must Be on Their Good Behavior.

Raleigh, N. C., January 15.—With ideal weather conditions and throngs of people from every part of the State, outnumbering any crowd ever before gathered to participate in such an event in North Carolina, the inaugural ceremonies of Hon. Locke Craig as Governor and the induction of all other State officers into office took place to-day.

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